MINUTES OF MEETING OF COMMITTEE FOUR

CHURCH HOUSE, MONDAY, 10 SEPTEMBER, 2:30 P.M.

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Present: For the British: Sir David Maxwell Fyfe
Sir Thomas Barnes
Mr. Fassant

For the Americans: Mr. Alderman
Mr. Shea
Commander Kaplan
Colonel Kaplan

For the Russians: Mr. Ivanov
Mr. Troyanovsky

For the French: Professor Gros
Professor Renouvin
M. Miller

Upon inquiry, Sir Thomas Barnes stated that there were no minutes of any previous meeting of Committee 4.

Professor Gros distributed to the delegations in French text a four page report or comment by Professor Renouvin on the general aspects of the case as falling within the jurisdictions of both Committees 1 and 4.

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Professor Renouvin asked to have this meeting called so that he might present his views regarding the general scope of the case since it is necessary for him to return to Paris. I have presented to the meeting a small report by Professor Renouvin on the general aspects of the case of interest to Committees 1 and 4. Since Professor Renouvin has not yet arrived I can state that he is the most learned historian of France. He was in charge of the study of the origins of the war of 1914 and he prepared the French Yellow Paper on this war. I think that his report and comments are extremely interesting and important for consideration by this committee. I would be much interested in hearing the ideas of the other delegations as to the general scope of the case.
I suppose I am here in the capacity of temporary chairman of Committee 4, acting in Mr. Justice Jackson's absence. I have not been closely in touch with the thinking and preparation of the case by Committee 4. Indeed, I understand that this committee has held only one informal meeting at which there was general discussion of which no minutes were kept. I should think it would be very helpful if Professor Gros would give us a summary of Professor Renouvin's report and comments which have been furnished us in French.

Presented a summary of Professor Renouvin's report.

(Alderman's translation of this report is attached as an exhibit to these minutes, and the report is self-explanatory.) I think it is highly important that we make use of the German White Book of 1939. We must study that White Book because it is the real basis of the defense in this case. We must prove that this war was started to gain Lebensraum for Germany and as a war of aggression. As indicated in the German White Book, the defense will take the position that France and England had tolerated rearmament and the militarization of the Rhineland. However, England and France did not know the secret plans of Hitler, such secret plans as were disclosed by the highly important document of May 28, 1939. The proofs in our trial must meet the tests of future years and even meet the immediate criticisms of historians for the next few years. It is not sufficient for us to use generally published German documents. We must get into the secret German archives. Our researchers should never seek proofs as those detailed under the 18 numbered paragraphs of II of Prof. Renouvin's report. In each case we should undertake to show the aggressive spirit on the part of Germany and lack of knowledge on the part of France and England of Germany's secret intentions. We are very much concerned about the interrogations of the defendants which we understand are going forward. We do not know what the results of the interrogations are. We do not know what instructions have been given to those doing the interrogating and, particularly, we do not know whether they are sufficiently acquainted with the historical background to enable them to make the interrogations worth while. Interrogations of defendants can be very dangerous unless the man doing the interrogating knows as much or more than the person interrogated.

I am sure we all appreciate the helpfulness of Prof. Renouvin's comments and I do not think there is any difference in view between us. All of our search for documents has been in the secret archives of captured German documents and we have been striving for just the character of documents indicated in Prof. Renouvin's
comments. The more such documents we can find, the better. But the big problem is to find them. On the matter of interrogations our team of interrogators has just started, on August 27-30, interrogations of some of the principal defendants, Goering, Ribbentrop, Keitel, Jodl and Gauß, who has just been brought up from Italy. We have not officially received copies of any of these interrogations, though Mr. Shea and I did, over the weekend, have an opportunity to look over some of them very hastily in the form of carbon copies brought here by an officer who had to take them back this morning. Some of them seem quite helpful. Some of them were not helpful because they merely elicited denials of the authenticity of documents. We fully understand the dangers of interrogation without sufficient preparation by the interrogators and we are making every effort to give them that preparation.

Prof. Renouvin will be glad to prepare a specific list of questions with historical documentation especially to be used in the interrogation of such persons as Ribbentrop and perhaps also von Neurath. He will be glad to do this within the next few days.

If Mr. Justice Jackson and General B. Kitchin get back to London, we think it is highly important to have a meeting of Chief Prosecutors on Thursday or Friday, at which time the French Chief Prosecutor, M. de Fontaine, would also be here. The Chiefs then could give a general review of the status of the preparation.

(Who had just arrived.) It would have been possible to conduct this trial without treating the causes of the war. But, whether wise or unwise, we have chosen as the basis of the trial the common plan of Germany to make aggressive war. This decision having been taken, we cannot possibly separate the common plan from the question of the causes of the war. So it is necessary for us to search for the irrefutable evidence of the common plan.

We have a somewhat different approach to this. I believe wholeheartedly in the existence of the common plan and I do not think that showing the common plan necessarily leads us into debate as to the causes of the war. We have certain indisputable facts, historical facts, which cannot be denied: Germany's rearmament, its reoccupation of the Rhineland, the formation of the Nazi Party, of the S.P., the persecution of the Jews, the cult of the Herrenvoll, the Führer principle, the invasion of Austria, Rügen, Czechoslovakia, Poland, the Scandinavian countries, the Low Countries and the attack...
on Russia, all of these demonstrate the common plan for aggression. Coupled with proof of membership of the defendants in criminal organizations and then we have inferences from these inescapable facts plus the specific proof of particular German documents.

RENQVIN: Of course we start with known facts, but certain of these facts are capable of two interpretations. As to Czechoslovakia, the Germans will say it was only a question of protecting the Sudeten German minorities. We must have the German documents to prove that this was only a pretexts to prepare aggression.

FIFE: We think this brings into play what in English law we call the "rule of system." One fact or several facts may not prove an intent, but when you have a long series of facts, all in the same pattern, it is powerful proof of intent. We do not, of course, wish to invite too long a discussion of motives.

RENQVIN: How will you avoid the discussion of motives?

ALDERMAN: I think Mr. David's summary of the views of his delegation is a very succinct and accurate statement of Mr. Justice Jackson's views. I know that he has always felt, and often expressed, the view that the indubitable facts of various aggressions by Germany prove the intent to commit aggression in such a way that it becomes imperative to discuss more historical causes of war. We think the Court should exclude discussion of antecedent causes.

RENQVIN: But once you engage the common plan you are bound to engage the causes of the war. It is an essential contradiction to say that you are showing a common criminal plan and then to say that you are not dealing with the causes of war. When Germany demanded equality of armaments, perhaps we can show by German secret documents that in 1933 she actually wanted superiority, not equality of armaments.

SHEA: It seems to me that there are two answers to the suggestion of Prof. Renouvin:

1) We of course have to compromise between complete historical proof and the practicalities of a trial.

2) I call attention to the particular provisions of the Charter. The Court can require the defendants to make a showing of what defense they will offer and the Court will rule on the relevancy. I think under these provisions the Tribunal can cut short all irrelevant explanations by the defendants. We cannot postpone the trial.
SHEA (cont): In order to make a complete historical study.

RENOVIN: I have not suggested postponing the trial, but if the Tribunal cuts off the defense's efforts at explanation, then history will say that the Court has pre-judged the question of guilt. Don't forget the German campaign after the last war, the campaign which asserted that the German admission of war guilt was a lie. It would be much worse this time if the Court cut off the defendant's explanations.

ALDERMAN: I do not think our views are far apart. We all think we can rely on inferences from inescapable facts as to aggressions, and I think we all agree that the more German documents we can find which will nail down the intent, the better.

PASSANT: Some of the important documents are the earlier ones on the whole theory of Pan-Germanism and expansion.

ALDERMAN: In that connection, have you given consideration to whether we can make anything out of the theory of geopolitics and Hauschörer's contribution to the basic doctrines of Hitler and the Nazis?

PASSANT: Yes; but it is very difficult to make anything convincing out of it.

RENOVIN: Take the case of intervention in Spain. It would be highly important for us to find German records of conversations between Hitler or Ribbentrop and General Sanjurjo, when he came to Berlin.

KAPLAN: In his interrogations, Goering has admitted active participation by Germany in Spain.

RENOVIN: Everybody knows that Germany intervened in Spain, but it is important to show that Germany participated in starting the Spanish civil war. For instance, promised help to Franco if he should start it.

GROS: In this trial we have not merely the problem of convincing the German people. We may never convince them. But the problem of convincing our own people. Recent editorials in the Manchester Guardian indicate that we may have great difficulty convincing our own people.

ALDERMAN: Inquired whether copies of the German White Paper in English are available here. (The British agreed to ascertain how many were available and to make distribution for the purposes of study.)
FIFE: How will we prove the appointments of defendants to particular governmental and Party positions?

PASSANT: Mostly by decrees and the 'Reichsgesetzblatt' or by a series of documents.

ALDENHAM: That is one thing which the defendants answer very readily in their interrogations. They tell exactly when they were appointed to various positions and how long they served. It may be further proved by documents.

GRS. KAPLAN: There are two stages of preparation of this evidence. Our people have been working on statements of biographies of the Nazi ring-leaders, and that is the first stage. The second stage is getting at the documentary sources upon which the biographies are prepared.

A: Somebody ought to be charged with the responsibility of getting the documents to prove the appointments.

ALDENHAM: I should think we ought to get everything possible here in London from such sources as your Foreign Office and then rely on the documents in Nuremberg and in the German Library there.

FIFE: I plan to go to Nuremberg Monday, September 17th, and I should like to take with me such documents as Mr. Passant can furnish. How are we going to prove the organization of the Gestapo, the SS and the SA? Will the Americans take that over?

ALDENHAM: We will do what we can on it, but I hesitate to assume any complete responsibility. I think it is a matter in which all of us are interested.

SHEA: I understand you (the British) are taking over the documentation on the defendants' appointments and we on the organization of the Gestapo, SS and SA.

FIFE: What about the question of the persecution of the Jews?

ALDENHAM: Committees 2 and 3 have been dealing with that question extensively. We have just received one of the very best OSS studies. It is a pile of documentation about a foot high. It contains a great deal of real evidence and elaborate sitution of documentary sources. It contains an excellent introductory summary which we think could be made into a brief by counsel descriptive of the evidentiary materials. It perhaps needs a good deal of work in the way of condensation to make it usable in the trial.
What about the Nuremberg theory, the Fuehrer principle, racism?

GHH: Do you have our State Department pamphlet on National Socialism? It is an excellent study based on documentary sources. We will be glad to distribute copies of it.

FIFE: What about the economic organization of Germany for the war, guns instead of butter, supplies from foreign countries, etc?

SHEA: We are searching for evidence on the economic question. Not much has been turned up yet, but we have teams on the Continent and hope considerable evidence will develop.

BARNES: I hope the Americans will undertake to break down this foot-high Jewish study so as to make it usable.

ALDEN: We will undertake to do so.

GROS: On the economic question, we have some studies on systematic looting in France.

FIFE: But I had more in mind the pre-war economic preparation for aggression.

BARNES: How far have you (SHEA) got on the study of the economic planning?

SHEA: We have ten men in Frankfurt engaged in research. G-2 is giving us fifty. It is necessary to give much more rigid combing to the masses of documents. We are preparing interrogations with adequate background. We have some evidence now, but not nearly enough.

FIFE: It seems to me to be a very delicate problem.

GROS: It would be highly important to find the archives of the German Ministry of Economic Warfare and the archives of the Four Year Plan.

ALDEN: It is our understanding that those two bodies of archives have not yet been discovered.

TROYANOVSKY: General Mikolchenko is searching to see if those have been captured by the Russians and also is searching for the Green Plan.

ALDEN: In connection with the questions Sir David has been asking, there are also the questions of destruction of trade unions, destruction of opposition parties and regimentation of education.
The British will try to cover those.

We have a fairly well documented study on the destruction of trade unions which I will distribute.

On the question of Austria, we have Mr. Passant's pamphlet in the Oxford University series. It seems to me that it is hard for us to take a long view on Austria. Historically there was always an important party in Austria in favor of Anschluss. We had better stick to the short term approach, Hitler's assurances of an independent Austria and then suddenly taking it over. I wonder what are Prof. Renouvin's thoughts on this?

I agree with your view, but I think we should go back at least to the Schuschnigg conversations. But unless we have documents definitely to prove intent, we had better hold to the short term view on Austria.

We have had a man here from the Continent for three days briefing him preparatory to his examination of Schuschnigg. We have a specimen outline of his proposed interrogations. He has been well briefed. We would welcome any suggestions from other delegations.

I should be glad to look at the outline of interrogations and then make suggestions.

We will distribute it to all the delegations.

It is probably not a subject within the jurisdiction of this committee, but it is important to ascertain the views of this committee on the question of how the four delegations are to work on preparing the indictment. We think that is an entirely separate problem from the rules of procedure. Our view is that the indictment ought to be prepared by, or under the jurisdiction of, Committee 4 since the broad sweep of the case is Committee 4's jurisdiction. The indictment is a very difficult and complicated problem and we must largely adapt our Anglo-Saxon views of an indictment to the Continental views, as the Attorney General well said to the last meeting of Chief Prosecutors.

Obviously the preparation of the indictment is not for Committees 1, 2 and 3. It is either for Committee 4 or a special ad hoc committee.

I agree.
I should like to suggest that this distribution of tasks we have been talking about must be held to be largely tentative, and we think each of the delegations ought to help in every possible way with each of the tasks.

TAYLOR:
I agree.

GROSS:
I will have the Renouvin report translated and will distribute it.

RENOUVIN:
I am sorry to have to leave and go back to Paris, but another French historian will be here at once.

ADJOURNMENT.

SHEA

Attachment

Distribution:
Justice Jackson (2)
Mr. Shea
Comdr. Kaplan
Colonel Kaplan
Colonel Taylor
Colonel Sheeler